LAW OFFICES OF
ANDREA C. FERSTER
1100 SEVENTEENTH STREET, N.W., 10TH FLOOR
WASHINGTON, D.C. 20036

Andrea C. Ferster
(202) 974-5142

Cornish F. Hitchcock
of counsel
(202) 974-5111

(202) 331-9680 (fax)

April 2, 2002

RECEIVED
D.C. OFFICE OF ZONING
2002 APR 23 AM 10:58

Geoffrey Griffis, Chair
Board of Zoning Adjustment
441 4th Street, N.W., Suite 201
Washington, D.C. 20001

Re: BZA Appeal # 16849, Appeal of Robert Lehrman

Dear Mr. Griffis:

On behalf of the Appellant Robert Lehrman, I am writing to express our serious concern about the postponement of the hearing in the above-referenced appeal, which had been set for the afternoon of April 9, 2002, and has now been re-scheduled for a hearing date possibly as late as September 24, 2002. Mr. Lehrman requests that a hearing on this matter be re-scheduled for no later than July 2002.

Mr. Lehrman strongly objects to any deferral of a hearing on his appeal until September 2002, which we understand is the date being considered. Mr. Lehrman's appeal was filed on January 18, 2002. Mr. Lehrman and his witnesses appeared on April 9, 2002, and were fully prepared to go forward at the allotted time. Further, Mr. Lehrman has submitted all pre-hearing papers in a timely fashion Through no fault of his, Mr. Lehrman's appeal could not be heard at the scheduled date, and a new hearing date must be set. Mr. Lehrman strongly believes that the September 2002 date now being considered would be unfair and prejudicial.

First, a delay of five months will be extremely prejudicial to Mr. Lehrman The subject matter of Mr. Lehrman's appeal concerns the property owner's failure to take any measures to protect old growth trees on his property from being fatally damaged due to ongoing construction on the site, in violation of the tree removal restrictions imposed by the Woodland Normanstone Tree and Slope Overlay District, 11 DCMR §§ 1511-1515. Already, the owner's failure to take obvious and recommended protective measures has resulted in the destruction of two protected trees, and a third tree remains unprotected and vulnerable to the ongoing construction activities on the site. For that reason, Mr. Lehrman has requested that a stay of the construction permit be issued by this Board. Postponing a hearing on Mr. Lehrman's appeal and his request for a stay until September 2002,

BZA
Case No. 16849
Exhibit No. 25

Board of Zoning Adjustment
District of Columbia
CASE NO.16849
EXHIBIT NO.25

would therefore be extremely prejudicial to the vital concerns at issue in Mr. Lehrman's appeal and the regulations he seeks to enforce. Further construction on the site will also undermine this Board's ability to provide meaningful and effective relief for these violations.

Moreover, this delay is unfair to Mr. Lehrman and places him at a disadvantage vis a vis other appeals. There is no reason why a hearing on Mr. Lehrman's appeal should be postponed until September, while appeals that were filed after his appeal was filed receive an earlier hearing date. I note that the four cases scheduled on the same day as Mr. Lehrman's case was set to be heard all have docket numbers indicating that they were filed after Lehrman's appeal, yet they now have had hearings before Mr. Lehrman. While Mr. Lehrman understands that postponements are often unavoidable when cases before this Board take more time than is allotted them, the Board should make every effort to ensure that the re-scheduled hearing is set reasonable close in time to the prior hearing date, and that postponed appeals be heard in the order that they have been filed. At a minimum Mr. Lehrman's appeal should take precedence over appeals that have been filed subsequent to his appeal, even if that requires rescheduling the hearing on other matters that were filed later than Mr. Lehrman's appeal but now have an earlier hearing date. If is fundamentally unfair for appeals that were filed later than Mr. Lehrman's to receive an earlier hearing date.

Because time is of the essence, Mr. Lehrman agreed to a new hearing date in July (several dates were offered). However, the owner refused to accept these dates because they allegedly conflict with the owner's travel plans, adding additional unnecessary and prejudicial delay to the hearing of this matter. Mr. Lehrman submits that the convenience of the owner should not be permitted to delay the consideration of the merits of this case, particularly in light of the fact that the owner is continuing to build on the site and place protected old growth trees in jeopardy, in violation of the zoning regulations.

Accordingly, Mr. Lehrman requests that hearing date of no later than July 2002 be set on his appeal, even if that requires setting the hearing for a date that is allegedly inconvenient for the owner.

Please feel free to contact me, at (202) 974-5142, if you have any questions or need any additional information.

Sincerely,



Andrea C. Ferster

cc: Whayne Quin, Esq
Charlotte Parker, Ass't Corporation Counsel
Nancy MacWood, Chair, ANC 3C